



THE SECRETARY OF THE INTERIOR
WASHINGTON

APR 11 2003

Honorable Gordon Smith
United States Senate
Washington, DC 20510

Dear Senator Smith:

Thank you for your letter of April 9, 2003, regarding wilderness review on public lands that are subject to the Federal Land Policy and Management Act (FLPMA) of 1976. As United States Senators who represent much of our public land in this country, I appreciate having your views on the issue. I would like to share with you the Department's position on the issue and discuss the relevant facts that influence the questions you have raised.

When Congress passed FLPMA in 1976, it directed the Department of the Interior to conduct a review of public lands and to determine what land would be suitable for congressional designation as "Wilderness Areas" to be included in the National Wilderness Preservation System established by Congress in the National Wilderness Act of 1964. In Section 603 of FLPMA, Congress gave the Department fifteen years to conduct this study.

In 1991, the Bureau of Land Management (BLM) forwarded a list to President Bush that included 22.8 million acres of land for consideration as wilderness. This list was presented to Congress and these areas became known as the "Section 603 Wilderness and Wilderness Study Areas (WSAs)." Of that 22.8 million acres, the BLM recommended that Congress designate 9.6 million acres as wilderness because the areas were determined to be "suitable." After this exhaustive review, the remaining 13.1 million acres were deemed "non-suitable" for wilderness because even though they met the initial criteria they did not have all the necessary wilderness characteristics. Congress has designated 107 million acres of public land as "Wilderness," 6.5 million acres of which is managed by the BLM. The remaining 15.5 million acres of BLM land that was submitted to Congress are "Wilderness Study Areas (WSAs)" and are managed pursuant to the 1964 Wilderness Act and FLPMA – awaiting either formal congressional designation or return to general management. We do not plan any changes to the management of these lands, although we urge Congress to continue its efforts to designate appropriate lands as Wilderness Areas.

Your letter raises the question of how the BLM should manage all of the land that was not found to be either "suitable" or "non-suitable" for wilderness designation under the review that was mandated by Congress in Section 603 of FLPMA. This is the land that did not meet the initial criteria for consideration as wilderness. These 239 million acres are currently governed according to the land use planning process outlined in Title 2 of FLPMA.

Your letter also questions the legality of a policy document that was adopted at the end of the previous Administration, on January 10, 2001, which instituted a new procedure for managing public lands. This document has been referred to as "The Wilderness Handbook" – and is significant because it modifies 25 years of management practice. It directs local BLM offices to consider managing areas, other than those already identified under the "603" process, as if they were "Wilderness Areas." The specific question raised in your letter is whether the guidance in this "Wilderness Handbook" conflicts with the law and whether the Department can unilaterally decide to manage public lands as "Wilderness Areas" absent congressional authority to do so.

These are similar to questions raised in litigation brought by the State of Utah and others against the Department, which has been settled today between the parties. *State of Utah, et. al. v. Norton, et. al.*, Civ. No. 96-870 B (D. Utah).

The Department of the Interior believes that we should manage BLM lands in a way that provides the greatest benefit to the public. This might include any of the allowable uses identified in FLPMA, from recreational and other activities, to management for wilderness characteristics. We reach balanced decisions about these uses through the land use planning process, which includes substantial public input. The Department stands firmly committed to the idea that we can and should manage our public lands to provide for multiple use, including protection of those areas that have wilderness characteristics. This range of management options is consistent with FLPMA, which provides that the BLM should reach these decisions through the public land use planning process.

The BLM's land use planning rules provide that the government can identify, or "inventory" lands for a variety of uses, including use for resource extraction, recreation and scenic or environmental purposes and for wilderness values. This process is laid out in Section 201 of FLPMA. However, "multiple use" provides that public uses need not be exclusive, and establishes that public lands can be managed for a variety of uses, or for specific priorities in areas of differing size. For example, land areas of any size that contain "Areas of Critical Environmental Concern (ACEC)" can be identified and managed for wilderness characteristics. This should be distinguished from the limitation of the 1964 Wilderness Act, which only allows roadless areas greater than 5000 acres to be congressionally designated as "Wilderness Areas."

The Department believes "The Wilderness Handbook" and related BLM guidance is not consistent with the law and we intend to withdraw the Handbook and modify the related guidance. First, the Handbook requires that upon inventorying new areas as having wilderness characteristics, the BLM must manage them as if they were "Wilderness Areas," notwithstanding the explicit reservation of this authority to Congress. This administrative direction to the BLM disregards the fact that the BLM has already conducted an exhaustive fifteen-year review and is currently managing more than 22 million acres of BLM land as "Wilderness," in accordance with the 1964 Wilderness Act and with FLPMA. It also ignores the fact that "Wilderness Areas" are managed, by law, for a single and statutory exclusionary use, and that any administrative decision

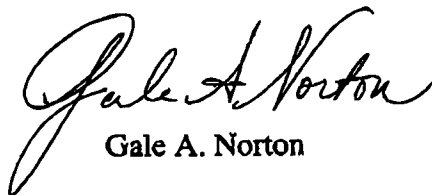
to manage other lands as "Wilderness Areas" outside of the 1964 Wilderness Act, violates clear congressional direction.

Second, the Handbook does not recognize the fact that the BLM already has the authority to incorporate wilderness values into any land use plan, in accordance with the public process incorporated in all land use planning efforts – without raising legal questions about FLPMA. The Department is committed to listening to public input through the land use planning process and, where appropriate, managing specified areas of land for wilderness values.

Your letter specifically requests that the Department suspend review of new wilderness areas other than those areas already identified through statute or managed according to Section 603 of FLPMA. We have agreed to take this action pursuant to the settlement of the litigation with the State of Utah. But also consistent with FLPMA, the Department will continue to consider wilderness characteristics as a part of its land use planning process. We believe the discussion of wilderness characteristics is an integral part of responsible land use planning.

Thank you for sharing your views with me. I look forward to working with you on this and any other issue of concern to you.

Sincerely,

A handwritten signature in cursive script, reading "Gale A. Norton". The signature is written in dark ink and is positioned above the printed name.

Gale A. Norton